



PROCUREMENT POLICY

**APPROVED BY SFRTA's GOVERNING BOARD
MARCH 25, 2011**

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY

PROCUREMENT POLICY

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CHAPTER 1. DEFINITIONS

- (1) The words defined in this Chapter shall apply to both this Policy and the SFRTA's Procurement Procedures and shall have the meanings set forth below whenever they appear in this Policy and/or the Procedures and whether they are capitalized or not, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular provision.
- (2) Definitions
 - (a) **"Business"** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
 - (b) **"Change Directive"** means a unilateral written order issued by an SFRTA approval authority, whether contingent or not, directing the Contractor to make changes in the plans, specifications or work that does not involve a material change in the Contract's scope of work. Change Directives are not applicable to Continuing Contracts.
 - (c) **"Competitive Range"** means the number of proposals determined by the Contracting Officer, in his or her discretion, that will permit an efficient competition among the most highly rated proposals. A Competitive Range may be used as long as the Solicitation informs offerors that the number of proposals can be limited for efficiency.
 - (d) **"Continuing Contract"** means a contract approved pursuant to the Consultants' Competitive Negotiations Act (F.S.S. 287.055) for professional services between SFRTA and a firm whereby the firm provides professional services for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, for study activity if the fee for professional services for each individual study under the Contract does not exceed \$200,000, or for work of a specified nature as outlined in the Contract, with the Contract being for a fixed term or with no time limitation except that the Contract must provide a termination clause. Firms providing professional services under Continuing Contracts shall not be required to bid against one another.
 - (e) **"Contract"** means all types of binding agreements and any Contract Modifications regardless of what they may be called, for the Procurement or disposal of Supplies, Services or Capital Projects.
 - (f) **"Contractor"** means any Person having a Contract with the SFRTA.

- (g) **“Capital Project”** means work associated with the building, altering, repairing, improving, or demolishing of any public structure or building, or other public improvements of any kind either owned or under the control of the SFRTA. It does not include the routine operation, repair, or maintenance of existing structures, buildings, or other Real Property.
- (h) **“Interested Party”** means any bidder or proposer with legal standing that is affected adversely by SFRTA’s decision concerning a Solicitation or Contract award.
- (i) **“Formal Procurement Threshold”** means the dollar amount at which a formal Solicitation process is required. The Formal Procurement Threshold is \$100,000.
- (j) **“Invitation to Negotiate”** means a source selection process that is used when the Procurement Director deems it is in SFRTA’s best interest to negotiate with offerors to achieve the “best value” for the Authority. A short list of acceptable proposers is created. Two negotiation methods may be used: single negotiation and concurrent negotiation.
- (k) **“Lobbyist”** means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the approval , disapproval, or modifications of (1) any action or decision of the Governing Board; (2) any action, decision or recommendation of the Executive Director or General Counsel; (3) any action, decision or recommendation of an evaluation committee or committee member; or (4) any action, decision or recommendation of SFRTA staff or consultants regarding a Procurement during the time period a Cone of Silence is in effect for the Procurement. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities. Lobbyists may be subject to registration requirements established by the Board.
- (l) **“Micro Purchase”** means the purchase of Supplies or Services with a value of \$3,000 or less.
- (m) **“Modifications”** means all Contract amendments and Change Directives associated with a Contract.
- (n) **“Person”** means any business, corporation, partnership, individual, union, committee, club, organization, or group of individuals.
- (o) **“Policy”** means the South Florida Regional Transportation Authority Procurement Policy.
- (p) **“Potential Vendor”** means any Person that holds him/herself out as possessing the necessary qualifications or ability to bid or propose on the subject matter of a Procurement.

- (q) **“Procurement”** means buying, purchasing, renting, leasing, or otherwise acquiring any Supplies, Services or Capital Projects. It also includes all functions that pertain to the obtaining of any Supply, Service, or Capital Project, including a description of requirements, selection and Solicitation of sources, preparation and award of Contracts and all phases of Contract administration.
- (r) **“Procurement Director”** means the chief contracting officer of the Authority, or his or her designee.
- (s) **“Protest”** means a written objection to the commercial terms or technical specifications in the Solicitation or the Contract award.
- (t) **“Protest Period”** means three (3) business days following the date of the posting of the Intent of Contract Award on SFRTA’s website or the date of the issuance of an addendum as to the content of such addendum or the date of issuance of the Solicitation. A “business day” means normal business hours of 9 a.m. to 5 p.m. local time.
- (u) **“Real Property”** means land, and its permanently affixed buildings or structures, or permanently affixed buildings and/or structures where the land may not be part of the transaction, e.g. leasing.
- (v) **“Regulated Utilities”** means a basic service such as electricity, gas, or water provided by an entity that is regulated by the State or Federal government or by a county, municipality or special district.
- (w) **“Regulation”** means a governmental body's statement, having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describe organization, procedure, practice or requirements.
- (x) **“Services”** means the furnishing of labor, time, and effort by a Contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements, collective bargaining agreements or service agreements with Regulated Utilities, but shall include both professional and general services.
- (y) **“Small Purchase”** means the purchase of Supplies or Services with a value of \$100,000 or less, but more than \$3,000.
- (z) **“Sole Source Procurement”** means acceptance of a proposal or bid when it has been determined that the Supplies or Services desired are available from only one source; or, that competition is inadequate.

- (aa) **"Solicitation"** means the advertising of a formal Procurement through public notice.
- (bb) **"Solicitation Documents"** mean all of the documents used to solicit bids or proposals, including, but not limited to, the commercial terms, technical specifications of a Procurement and all addenda.
- (cc) **"Supplies"** means all property, except Real Property, including, but not limited to, goods, equipment, materials, and printing necessary for the accomplishment of SFRTA's mission.
- (dd) **"Suspension"** means an action taken that immediately prohibits a Person from participating in a Procurement for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A Person so excluded is suspended.
- (ee) **"Work Order"** means authorization issued by SFRTA pursuant to a duly awarded professional services Contract for Services as the need arises.

CHAPTER 2. GENERAL PROVISIONS

(1) Promulgation; Title

- (a) Promulgation: Pursuant to the authority granted by the Legislature, which enacted Chapter 343, Florida Statutes (2003), creating the South Florida Regional Transportation Authority, a body politic and corporate, an agency of the State of Florida, the Procurement requirements set forth in this Policy have been promulgated and approved by the Governing Board ("Board") of the South Florida Regional Transportation Authority ("SFRTA" or "Authority").
- (b) Title: These requirements shall be known and may be cited as the "South Florida Regional Transportation Authority Procurement Policy."

(2) Purposes, Rules of Construction

- (a) Interpretation: This Policy shall be construed and applied to promote its underlying purposes and policies.
- (b) Purposes and Policies: The underlying purposes of this Policy are to provide SFRTA with a unified purchasing system, with centralized responsibility allowing for the processing of some work by delegation. This Policy enables SFRTA to maximize to the fullest extent practicable, the purchasing value of public funds by

fostering effective broad-based competition within the free enterprise system, while promoting fair and equitable treatment of all Persons who deal with SFRTA. This Policy provides safeguards for the maintenance of the quality and integrity of the Procurement process by SFRTA.

- (3) **Supplementary General Principles of Law Applicable:** The principles of law and equity, including laws relative to ethics, and laws relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this Policy.
- (5) **Requirement of Good Faith:** This Policy requires all parties involved in the negotiation, development, performance, or administration of SFRTA Contracts to act in good faith.
- (6) **Open Competition Required:** All Procurement transactions shall be conducted in a manner providing full and open competition, unless exempted by this Policy.
- (7) **Singular-Plural and Gender Rules.** In this Policy, unless the context requires otherwise: words in the singular number include the plural, and those in the plural include the singular; and words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.
- (8) **Permissive and Imperative Rules.** For the purposes of this Policy, the word “may” and “should” denotes the permissive and “must” and “shall” denotes the imperative.
- (9) **Exemptions:** The Procurement of the following are exempted from the competitive solicitation requirements of this Policy¹:
 - (a) Real Property, abstracts of title for Real Property, title insurance for Real Property, and other related costs of the leasing and acquisition of Real Property. This exemption does not include land surveying or appraisal services.
 - (b) Purchases between governments and nonprofit organizations.
 - (c) Auditing services: The Authority will undertake the Procurement of external auditing services pursuant to the provisions of this Policy subject to the following restriction: Any auditing company that has served as the Authority’s lead external auditor in the year immediately preceding the Procurement shall be ineligible to participate in that Procurement as the prime contractor.
 - (d) Other: Dues and memberships; subscriptions; legal services; artistic services, Regulated Utilities charges; governmental fees; insurance; employee travel expenses; published advertising (including barter agreements); banking services; food services (not including vending); purchases using petty cash; and fees and costs of job-related seminars and training.

¹ See Sections 3.9 and 3.10 of the SFRTA By-Laws for approval authority.

- (e) Law and Grant Requirements: In any situation where compliance with this Policy, in whole or in part, will place SFRTA in conflict with state or federal law, including, but not limited to FTA Circular 4220.1F, "Third Party Contracting Requirements," as may be revised from time to time, or the terms of any grant, SFRTA shall comply with such federal or state law, grant requirements, or authorized Regulations, which are mandatorily applicable and which are either not reflected in this Policy or are contrary to provisions of this Policy.
- (f) A competitive process may be used whenever practicable, at the sole discretion of the Procurement Director, for the Procurement of items exempted from this Policy.
- (10) Standards of Conduct and Conflict of Interest Policies. Board members and staff members shall be governed by the SFRTA Ethics Policy as approved by the Board.
- (11) South Florida Rail Corridor. In the event SFRTA undertakes a Procurement for construction, operation, management or maintenance of the South Florida Rail Corridor, SFRTA will comply with the provisions of s. 287.057, F.S., when those provisions vary from provisions of this Policy and impose additional requirements on Procurement activities, as necessary.
- (12) FDOT JPAs. From time to time SFRTA receives funding from the Florida Department of Transportation through Joint Participation Agreements (JPAs). In those cases, additional procurement requirements may apply to the use of the funds. The specific JPA providing funding for a particular procurement should be consulted for any additional requirements.
- (13) This Policy, as revised, shall be effective immediately upon its approval by the Governing Board as to any Solicitations initiated after such approval. This Policy shall supersede the Tri-County Commuter Rail Authority Procurement Code dated 1999.

CHAPTER 3. ORGANIZATION

- (1) Authority of the Board: Except as otherwise provided in this Policy, all rights, powers, duties and authorities relating to the Procurement of Supplies, Services and Capital Projects are vested in or exercised by the Board.
- (2) Approval Authority for Procurement Actions and Contracts.
 - (a) The Board shall approve Contracts when they exceed \$100,000.
 - (b) The Board shall approve all other Contract actions not provided for in subsection (2)(c) below.

(c) The Executive Director shall approve the following with notification provided to the Board of actions taken through regular reports;

1. All Contracts when they do not exceed \$100,000;
2. For Contracts that specify an annual monetary limit, Work Orders issued pursuant to Contracts up to the annual monetary limit either for the Work Order or for the combined value of Work Orders, issued pursuant to any single Contract, whichever is less, not to exceed either the annual monetary limit or annually budgeted funds;
3. For Contracts that do not specify an annual monetary limit, Work Orders that do not exceed \$100,000, with the combined value of Work Orders issued pursuant to any single Contract not to exceed annually budgeted funds unless the Contract specifies a different dollar threshold for Work Orders;
4. Work Orders issued pursuant to Continuing Contracts approved by the Board with the combined value of Work Orders not to exceed the Contract amount, if specified, or annually budgeted funds, whichever is less;
5. Modifications to any Contract involving an increase in the Contract amount, with each increase not to exceed \$100,000, and with the combined value of Modifications to any single Contract not to exceed annually budgeted funds;
6. Exempt Procurements not to exceed annually budgeted funds.

(d) The General Counsel shall approve Contracts as provided for in section (7) of this Chapter.

(e) The Procurement Director must approve Contracts, Modifications and Work Orders up to \$10,000 if such authority is delegated to the Procurement Director by the Executive Director.

- (3) Delegation of Authority to Executive Director: Except as otherwise provided in this Policy, all rights, powers, duties and authorities relating to the Procurement of Supplies, Services and Capital Projects vested in the Board are hereby delegated to the Executive Director subject to the limitations contained in Section 2 above. The Executive Director is specifically authorized to delegate the approval authority set forth in subsections (2)(c) and (4) of this Chapter to the Deputy Executive Director. The Executive Director's authority also includes the power to initiate Procurements, determine responsiveness, cancel Procurements, negotiate, enter into and modify Contracts. The Executive Director may terminate Contracts approved by either the Board or Executive Director after consultation with the General Counsel and dispose of surplus property on behalf of SFRTA.

(4) Additional Authority of the Executive Director

- (a) The Executive Director may promulgate and issue Procurement Procedures to implement and augment the provisions of this Policy.
- (b) The Executive Director is authorized to participate in, sponsor, conduct, or administer Contracts with one or more public Procurement units for the Procurement of any Supplies, Services or Capital Projects with one or more public Procurement units (i.e., any City, Town, County, and any other subdivision of the state or a public agency of any such subdivision, public authority, educational, health, or any other institution, and any other entity which expends public funds for the Procurement of Supplies, Services and Capital Projects). Such will include joint or multiple party contracts between public Procurement units and open-ended Contracts which are made available to public Procurement units. Where a local public Procurement unit or external Procurement entity, such as the National Joint Power Alliance or similar organization, administer a cooperative purchase activity complying with the general requirements of this Policy, SFRTA's participation in such a purchase shall be deemed to have complied with this Policy. Any controversies concerning the award of a Contract which has been entered into on a cooperative basis shall be remedied under the rules and regulations of the entity advertising the Contract.
- (c) The Executive Director is authorized to purchase from Contracts and schedules generated by the State of Florida as well as units of the Federal Government as permitted by Federal law and Regulation.
- (d) The Executive Director may sell to, acquire from, or use any Supplies or Services belonging to a local public Procurement unit or external Procurement entity, such as the National Joint Power Alliance or similar organization.
- (e) The Executive Director shall have the authority to enter into Contracts awarded by other governmental units. if the Contract was awarded through an open and free competitive bid system. The actual award of such a Contract shall be made under the provisions contained in this Policy for the award of Contracts by SFRTA, and SFRTA shall enter into a Contract with the Contractor.
- (f) The Executive Director may authorize the use of purchasing cards (P-Cards) subject to the provisions of this Policy and pursuant to procedures approved by the Executive Director.
- (g) The Executive Director shall approve all deductive Change Directives and Contract Modifications for administrative and no-cost time extensions, only.
- (h) The Executive Director shall approve all insurance Contracts procured through SFRTA's insurance broker.

(5) Delegation of Authority to Procurement Director

Except as otherwise provided in this Policy, all rights, powers, duties and authorities relating to the Procurement of Supplies, Services and Capital Projects vested in the Executive Director are hereby delegated to the Procurement Director as more fully set out in Section (6) below.

(6) Authority of the Procurement Director: Except as otherwise specifically provided in this Policy, the Procurement Director shall:

- (a) Procure or supervise the Procurement of all Supplies, Services and Capital Projects.
- (b) Use any Procurement method authorized by this Policy.
- (c) Transfer or sell surplus Supplies or property (i.e., those Supplies no longer having any use to SFRTA, including, but not limited to, obsolete or scrap material and nonexpendable supplies that have completed their useful life cycle), to other governmental agencies or to the public by sealed bids, public auction (including auctions conducted via the Internet), trade, or disposal of property in any other method consistent with the laws of Florida and other applicable laws and Regulations. The Procurement Director and Finance Director, having direct control of the Supplies or handling the disposition of the Supplies, shall not be entitled to purchase any such Supplies.
- (d) Execute purchase orders in amounts in excess of \$10,000 when the requisition for the purchase order has been approved by the Executive Director.

(7) Duties of General Counsel and Delegation of Authority: The General Counsel shall serve as legal counsel and provide legal services as requested. General Counsel shall review all Contracts and Contract Modifications to be approved by the Board or Executive Director for form and legal sufficiency before such documents are executed. The Board hereby delegates to the General Counsel, to the same extent delegated to the Executive Director, all rights, powers, duties and authorities relating to the Procurement of Supplies and Services for the Legal Department. Specifically, the General Counsel shall approve Contracts specified in (2)(c)(1) of this Chapter, Work Orders specified in (2)(c)(2) through (4), except that individual Work Orders under (c)(3) shall not exceed \$50,000, payments made pursuant to (2)(c)(5), Modifications specified in (2)(c)(6) and Exempt Procurements pursuant to (2)(c)(7) for the Legal Department. The General Counsel is authorized to delegate the approval authority set forth in this section (7) to the Deputy General Counsel. The General Counsel may terminate Contracts approved either by the Board or the General Counsel relating to the Legal Department after consultation with the Executive Director.

- (8) Regulated Utilities. Payments made to Regulated Utilities for Services provided to SFRTA-owned or operated facilities, including, but not limited to, its administrative offices, stations and maintenance facilities, in addition to being exempt from the competitive solicitation requirements of this Policy, are not subject to the limitations on spending authority set forth in this Chapter and payment for such expenses as they are incurred for operations from annually budgeted funds are hereby expressly authorized.

CHAPTER 4. SOURCE SELECTION, CONTRACT FORMATION, ADMINISTRATION

- (1) Types of Contracts Allowable: Except as provided in this section, any type of Contract which will promote the best interest of SFRTA and which is consistent with the laws of Florida and other applicable laws and Regulations may be used in accordance with the requirements of this Policy unless the provisions of Section 287.057, Florida Statutes, are activated as provided for in Section (12) of Chapter 2.
- (2) Methods of Source Selection: All Contracts shall be solicited in accordance with the provisions of this Chapter and this Policy. A Procurement's potential value may not be divided or reduced to avoid the additional requirements applicable to larger acquisitions.
- (3) Modifications: SFRTA shall have the right, based on a clause contained in each Contract for a Capital Project or the delivery of Supplies and Services to enter into Contract amendments to correct errors, omissions, or discrepancies; to cover acceptable overruns; to expand or reduce the scope of the Contract; or to direct other changes in Contract execution to meet unforeseen field, regulatory or market conditions. . In addition, SFRTA shall have the unilateral right, based on a clause contained in each Contract, to issue a Change Directive and negotiate cost and price for time and materials, if applicable, after its issuance .
- (4) Micro Purchases
- (a) Conditions for Use. Micro Purchases may be authorized by the Procurement Director for Supplies and Services, provided that each Micro Purchase does not exceed \$3,000.00. Purchases shall not be artificially divided so as to constitute a Micro Purchase under this section.
- (a) Competitive Pricing. The Procurement Director may use any method of Procurement for Micro Purchases provided that pricing is determined to be fair and reasonable.
- (5) Small Purchases
- (a) Conditions for Use. Small Purchases may be authorized by the Executive Director for Supplies, Services and Capital Projects, provided that each Small Purchase

does not exceed \$100,000.00. Purchases shall not be artificially divided so as to constitute a Small Purchase under this section.

- (b) Competitive Pricing. Small Purchases shall require, at a minimum, two written or oral quotations from prospective vendors.
 - (c) Decline to Provide Quotation. If, in subsection (7)(b) above, after reasonable effort, only one source provides a responsive quotation, then award may be made to the responsive source if the pricing is determined to be fair and reasonable by the Procurement Director.
- (6) Formal Competitive Procurement Process. Formal competitive Procurement procedures are used for the Procurement of Supplies or Services estimated to be greater than the Formal Procurement Threshold and all Capital Projects valued at greater than the Formal Procurement Threshold. The three types of competitive Procurements processes explicitly addressed are the Invitation to Bid, the Request for Proposals, and the Request for Qualifications. However, the Policy also grants the flexibility to try new and innovative types of Procurements (see Section 16).
- (7) Public Notice. A notice of Solicitation (ITB, RFP, RFQ or any other formal Procurement process) shall be placed on SFRTA's website as a means of advising the public and vendor communities of the Procurement. At its sole discretion, SFRTA may post the notice in additional locations using any of a variety of advertising methods.
- (8) Competitive Sealed Bidding
- (a) Purpose: To solicit competitive or multi-step sealed bids.
 - (b) Receipt of Bids. Bids shall be submitted so as to be received at the location and in the manner designated in the ITB not later than the exact time set for the receipt of bids. Except as provided in this subsection, bids received after this time for any reason shall not be considered and returned to the bidder. A bid will not be considered late if a bid is submitted via U.S. Postal Service Express Mail Next Day Service or a commercial express mail service and the bidder provides written documentation showing that the bid package was dispatched at the place of mailing two working days prior to the date set for bid opening. The timeliness of bids is the sole responsibility of the bidder.
 - (c) Withdrawal of Bids. Any bidder may withdraw its bid, either personally or by written request, received by SFRTA, at any time prior to the time fixed for the receipt of the bids. A bidder's negligence in preparing its bid confers no right of withdrawal of its bid after such bid has been opened. No bid may be withdrawn for at least one hundred eighty (180) days following bid opening.
 - (d) Bid Opening

1. The Procurement Director shall decide the date and the time for bid opening and such information shall be advertised to the public.
2. All bids received in accordance with the time set for receipt shall be publicly opened and when practical, read aloud by the Procurement Director to the Persons present. The bids received shall be recorded. If it is impractical to read the entire bid, as where many items are involved, the total amount of the bid shall be read.

(e) Determination of Responsiveness

1. Any bid which fails to conform to the essential and material requirements of the ITB, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.
2. A bid shall be rejected when the bidder imposes conditions which modify requirements of the ITB. Bids will be rejected in cases in which the bidder: (i) attempts to protect itself against future changes in conditions such as increased costs, if a total price to SFRTA cannot be determined for bid evaluation; (ii) fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery" or words with a similar meaning; (iii) states a price, but qualifies such price as being subject to "price in effect at time of delivery" or words with a similar meaning; (iv) where not authorized by the ITB, conditions or qualifies the bid by stipulating that the bid is to be considered only if certain conditions demanded by the bidder are agreed to by SFRTA or prior to date of award, bidder receives (or does not receive) award under a separate Procurement; (v) limits the rights of SFRTA under any Contract clause; or (vi) fails to comply with all of the requirements of the ITB.
3. A bid will be rejected if a bid bond or similar instrument is required and a bidder fails to furnish it in accordance with the requirements of the ITB and applicable law.
4. After submitting a bid, if a bidder transfers all of its assets or that part of its assets related to the bid during the period between the bid opening and the award, the Procurement Director will reject the bid.

(f) Determination of Responsibility

1. Bidders shall provide the Procurement Director with any information required for the Procurement Director to determine the responsibility of the bidder.

2. Before awarding the Contract, the Procurement Director shall determine that a prospective contractor is responsible and that its prices are reasonable. A responsible prospective contractor is one that meets the standards set forth below:
 - a. Has adequate financial resources as of the date of the award, or the ability to obtain such resources as required during performance of the Contract.
 - b. Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
 - c. Has a satisfactory record of performance. In determining a satisfactory record of performance, the following criteria will be evaluated: contractor integrity; compliance with public policy as determined by the contractor's conformance to Equal Employment Opportunity requirements and attainment of Disadvantaged Business Enterprise goals; achievement of a work record without disbarment or suspension; schedule compliance; budgetary compliance; and adherence to technical and financial resource requirements. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.
 - d. Is otherwise qualified and eligible to receive an award under applicable laws and Regulations.
 - e. Has the necessary organization, experience, operational controls, and technical skills, or has demonstrated the ability to obtain them.
 - f. Has the necessary production, construction, and technical equipment and facilities, or has demonstrated the ability to obtain them.
- (g) Cancellation or Rejection of Bids. The Procurement Director may cancel any bid prior to or after the opening of bids. SFRTA may reject any and all bids when the Procurement Director deems it to be in the best interest of SFRTA to do so and where such cancellation or rejection is consistent with Federal, State, and local Procurement regulations. When rebidding after the rejection of all bids received, if there are no changes to the scope and if the Executive Director determines that there were sufficient document holders during the initial Procurement to assure a competitive pool of bidders, he or she may limit notification of the rebidding to the document holders.
- (h) Mistakes in Bids

1. General. Technicalities or minor irregularities in bids may be waived if the Procurement Director determines that it shall be in SFRTA's best interest. The Procurement Director may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in its bid, or waive the deficiency if it is to SFRTA's advantage to do so.
2. Mathematical Errors. Errors in extension of unit prices or in mathematical calculations shall be corrected by the Procurement Director prior to award. In all cases of errors in mathematical computation, the unit prices shall not be changed.
3. Mistakes Discovered Before Opening. A bidder can correct mistakes discovered before the time and date set for bid opening by withdrawing the original bid and submitting a new bid prior to the time and date set forth for bid opening.
4. Confirmation of Bid. If the Procurement Director knows or has reason to conclude that a mistake has been made, the bidder shall be requested to confirm the bid. Situations in which confirmation will be requested include obvious, apparent errors on the face of the bid, or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid will be corrected or withdrawn if any of the following conditions are met:
 - a. If the mistake and the intended correction are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and shall not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
 - b. The Procurement Director may permit a bidder to withdraw a low bid if the bidder submits proof of evidential value that clearly and convincingly demonstrates that a mistake was made.
 - c. In the event a bid is withdrawn, SFRTA reserves the right to withhold the bidder's bid bond.

(i) Minor Irregularities in Bids

1. A minor irregularity is one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a bid from the exact requirement of the Solicitation. If such a situation exists, the Procurement Director shall allow the bidder to correct the irregularity or shall waive the requirement if permitting such

correction or waiving such requirement would not be prejudicial to other bidders or provide the bidder with a competitive advantage over the other bidders.

2. A defect or variation in a bid is considered immaterial and inconsequential when its significance as to price, quantity, quality or delivery is trivial or negligible when contrasted with the total cost or scope of the Procurement.
 3. The Procurement Director shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or waive the deficiency, whichever is to the advantage of SFRTA.
- (j) Tie Bids. If identical low bids are received, the Procurement Department will follow the procedure for resolving a tie bid set forth in the solicitation documents.
- (k) Multiple or Alternate Bids. Unless multiple or alternate bids are requested in the Solicitation, these bids will not be accepted. However, if a bidder clearly indicates a base bid, it shall be considered for award as though it were the only bid submitted by the bidder. These provisions shall be set forth in the Solicitation and, if multiple or alternate bids are allowed, it shall specify their treatments.
- (l) Reasonableness of Price (Price/Cost Analysis)
1. In the event a single bid is received, a price or cost analysis shall be used to determine the reasonableness of the bid price.
 2. If only one bid is received, the sole bidder is required to provide information to, and cooperate with, SFRTA as necessary in order for its bid to be considered for award. No bid will be accepted if the single bid price appears unreasonable, if the single bid is determined to be nonresponsive or if no determination is made as to the reasonableness of the single bid.
 3. SFRTA, at its sole option, may negotiate with one bidder when only one responsive bidder has submitted a bid.
- (m) Clarifications. Clarifications are limited exchanges that are permitted after bid opening between SFRTA and a bidder concerning certain aspects of a bid, including, but not limited to, past performance information, explanation of provided information or resolution of minor or clerical errors.
- (n) Pre-Award Survey. Prior to Contract award, SFRTA may conduct a Pre-Award Survey to verify claims made in the Bid.
- (o) Award. The Board will consider the award of the Contract on the basis of the lowest bid price submitted by a responsive and responsible bidder.

(9) Invitation for Revised Bids After Unsatisfactory Initial ITB

- (a) Purpose: An invitation for revised bids will be used if, after initial bids have been opened, all bids are rejected; if all initial bids submitted result in bid prices in excess of the funds available for the purchase; or if the Procurement Director determines that all prices received in response to the initial ITB are unreasonable as to one or more of the requirements and that:
 - 1. There are no additional funds available to permit an award to the responsible bidder submitting the most favorable bid; or
 - 2. Any delay resulting from a re-Solicitation under revised specifications or quantities under competitive sealed bidding would be fiscally disadvantageous or would not otherwise be in the best interest of SFRTA.
- (b) Discussions. Discussions will be held with all responsive and responsible bidders who submitted bids in response to the initial ITB. These discussions will address bidders responses to revised specifications and/or revised quantities. All bidders shall be accorded fair and equal treatment with respect to any discussions.
- (c) Invitation for Revised Bids. An invitation for revised bids based on revised specifications or quantities shall be issued by the Procurement Director as promptly as possible to only those bidders submitting responsive and responsible bids in the initial ITB process. The invitation for revised bids shall provide for a prompt response to the revised requirements.
- (d) Award. The Board will consider the award of the Contract on the basis of the lowest bid price submitted by a responsive and responsible bidder.

(10) Request for Proposals (RFP)

- (a) Purpose: To engage in a competitive negotiated Procurement process that requires evaluation of offeror's proposed costs and understanding of the Contract performance requirements in accordance with established evaluation criteria. The competitive negotiated Procurement process does not require award to the proposer with the lowest financial offer.
- (b) Receipt of Proposals: Proposals shall be submitted so as to be received at the location and in the manner designated in the RFP not later than the exact time set for the receipt of proposals. Except as provided in this subsection, proposals received after this time for any reason shall not be considered and returned to the proposer. A proposal will not be considered late if it is received at the location for receipt of proposals after the time set if the proposal is submitted via U.S. Postal Service Express Mail Next Day Service or a commercial express mail service and the proposer provides written documentation showing that the proposal package

was dispatched at the place of mailing two working days prior to the date set for receipt of proposals. The timeliness of proposals is the sole responsibility of the proposer. An RFP that receives fewer than three (3) responses by the submittal deadline may have the deadline for receipt of responses extended by a maximum of up to four (4) weeks, as determined by the Procurement Director, to solicit additional responses. The Procurement Director shall determine the length of the extension period. No response to an RFP will be opened prior to the close of the extension period. If, after the extension period has expired, there remain fewer than three (3) responses, the Procurement Department staff will compile all responses and determine their responsiveness. No RFP may be withdrawn for at least one hundred eighty (180) days following the RFP opening.

- (c) Evaluation of Proposals: All proposals received shall be evaluated by an Evaluation and Selection Committee (Committee) comprised of SFRTA staff members and may include other governmental agency personnel selected by the Executive Director. In the event of an absence of a Committee member(s) the Procurement Director has the discretion to proceed with an evaluation without a full complement of members provided a minimum of three (3) members are physically present. The Committee may reduce the number of firms to those that are within the Competitive Range for further discussions (assuming two or more proposers submit RFPs). The Committee may request presentations from the firms and seek clarifications about the proposals from the firms when a presentation will afford the Committee the opportunity to better ascertain qualifications of the proposers and the technical requirements of the proposal. The requirements for presentations or discussion will be the same for each firm. Clarifications may also be requested in writing from the firms. Discussions during presentations are not intended to include negotiations.
- (d) Ranking of Firms: The Committee members, after discussions and/or presentations by each firm, will make adjustments to their scoring, as they deem appropriate, and vote on the final ranking. Total scores for each evaluation criteria shall be based upon an average of the scores of all Committee members unless otherwise provided for in the Solicitation Documents.
- (e) Discussions
 - 1. Discussions are not required to be conducted with any offeror provided: (i) the Solicitation did not commit in advance to discussions or it notified all offerors that award might be made without discussion and the award is in fact made without any written or oral discussion with any proposer; (ii) the Procurement is for Supplies for which prices or rates are fixed by law and Regulation; (iii) the time for delivery will not permit discussions; or (iv) due to the existence of adequate competition or accurate prior cost experience, it can be clearly demonstrated that acceptance of an initial proposal would result in a fair and reasonable price.

2. If discussions are conducted with one proposer, discussions must be conducted with all proposers within the Competitive Range.

(f) Request for Best and Final Offer

1. Upon completion of discussions, if the Procurement Director determines it is in the best interest of SFRTA to issue a final supplement called a request for a "Best and Final Offer" (BAFO), SFRTA will issue a BAFO to all proposers within the Competitive Range . Oral requests for BAFOs shall be confirmed in writing. BAFOs must be submitted in accordance with written procedures provided by SFRTA.
2. Requests for BAFOs shall advise proposers: (i) that negotiations are being concluded; (ii) that proposers are being asked for their Best and Final Offer, not merely to confirm or reconfirm prior offers; and (iii) that any revision or modification of proposals must be submitted by the date specified.
3. Following the review of the BAFOs by the Committee, the Procurement Director shall consolidate the cost and technical evaluations and all score sheets along with their comments and recommendations. After reviewing the evaluations and recommendations made by the Committee, the Procurement Director shall provide the Committee's recommendation along with the Procurement Director's concurrence that the Committee has reached its recommendation in compliance with the Solicitation Documents and the Policy to the Executive Director for consideration of Contract award by the Board, if it is a Formal Procurement.

(g) Contract Award

After evaluation of proposals in accordance with the criteria set forth in the RFP, the Board or Executive Director, if authorized, will consider awarding the Contract to the offeror of the proposal most advantageous to the SFRTA, price and other factors considered.

(11) Procurement of Professional, Architectural, Engineering, Testing, Landscape Architectural, and Land Surveying Services

- (a) Purpose To comply with the requirements of Section 287.055, Florida Statutes, or this Policy.
- (b) Requests for Qualifications (RFQs) Solicitation: When procuring professional services on a Consultants' Competitive Negotiations Act ("CCNA") Project or Continuing Contract, a request for RFQs will be publicly advertised.

- (c) Review of Qualifications: All qualifications and submittals of those firms responding to an RFQ shall be reviewed and evaluated by an Evaluation and Selection Committee (Committee) comprised of SFRTA staff members and may include other governmental agency personnel selected by the Executive Director. In the event of an absence of a Committee member(s) the Procurement Director has the discretion to proceed with an evaluation without a full complement of members provided a minimum of three (3) members are physically present.
- (d) Short List: The Committee shall reduce the number of firms (i.e. short list) to at least three for further discussions (assuming three or more proposers submit responses to the RFQs). In short listing the firms, the Committee will attempt to select the best qualified firms to render the solicited service for the particular CCNA Project or Continuing Contract without considering price.
- (e) Presentations: The Committee will request presentations from the firms and discuss the proposals with the firms when a presentation will afford the Committee the opportunity to better ascertain qualifications of the proposers, seek clarifications about qualifications and address the technical requirements of the proposal.. The requirements for presentations or discussion will be the same for each firm. Clarifications may also be requested in writing from the firms. Discussions during presentations are not intended to include negotiations.
- (f) Ranking of Firms: The Committee members, after discussions and/or presentations by each short listed firm, will make adjustments to their scoring, as they deem appropriate, and vote on the final ranking. Total scores for each evaluation criteria shall be based upon an average of the scores of all Committee members unless otherwise provided for in the Solicitation Documents.
- (g) Ranking Reported to the Executive Director: After reviewing the evaluations and recommendations made by the Committee, the Procurement Director shall provide the Committee's recommendation along with the Procurement Director's concurrence that the Committee has reached its recommendation in compliance with the Solicitation Documents and the Policy to the Executive Director for consideration of Contract award by the Board, if it is a Formal Procurement. If the scoring is close or there are other significant issues which merit consideration, the Executive Director may recommend that the number of firms considered for Contract award be expanded beyond the number of firms recommended by the Committee.
- (h) Negotiations: Upon approval by the Executive Director of the highest ranked firms, the Procurement Director shall request the fee proposal from the highest ranked firm and attempt to negotiate a Contract with the highest ranked firm to perform services at a compensation which is determined by the Executive Director to be fair and reasonable.

If multiple CCNA contracts are to be awarded, the Procurement Director may request fee proposals from some or all of the ranked firms and negotiate with all of them without regard to order or rank. If the Procurement Director is unable to negotiate a satisfactory Contract with the firm obtaining the highest ranking or with one or more proposers if multiple CCNA contracts are to be awarded, negotiations with that firm(s) shall be formally terminated. In the case where only one Contract will be awarded, the Procurement Director then shall undertake negotiations with the second ranked firm. If these negotiations also prove unsatisfactory, negotiations shall again be terminated and the Procurement Director will negotiate, in turn, with each firm in accordance with its ranking by the Committee, until an agreement is reached or the short list is exhausted. When a short list is exhausted, a new Solicitation for RFQs in accordance with the provision of this subsection must be initiated in the event SFRTA decides it still wishes to procure the Services. In the case of multiple contracts, if the Procurement Director is unable to reach agreement with any of the ranked firms, the Procurement Director may expand the number of ranked firms (i.e. if three firms were ranked and the Procurement Director was unable reach agreement with one of the three, the fourth ranked firm may be substituted for the non-agreeing firm) to achieve the desired number of contracts.

- (i) Compensation: SFRTA shall negotiate a Contract with the most qualified firm for professional services (or firms in the case of Continuing Contracts) at compensation which the Procurement Director determines is fair and reasonable. In making such determination, SFRTA shall conduct an analysis of the cost of the professional services, including their scope and complexity.
- (j) Award of Contract: At the successful conclusion of negotiations, a Contract will be presented to the Board or the Executive Director, if the Contract amount is within his or her approval authority, for award. The Board or Executive Director will review the selection process and may reject all proposals if it is determined that such rejection is consistent with the provisions of this Chapter.
- (k) Contingent Fee Disclosure: Each Contract entered into by SFRTA for professional services shall contain a prohibition against contingent fees. For the breach or violation of this provision, SFRTA shall have the right to terminate the Contract without liability and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration, as well as any damages suffered by SFRTA as a result.

(12) Sole Source Procurement

- (a) The Executive Director is responsible for making the final determination on Sole Source Procurements that are within the Executive Director's approval authority

or for making a final recommendation to the Board when the Contract amount is greater than the Executive Director's approval authority.

- (b) Sole Source Procurement may be used only when a Contract award is infeasible under other competitive Procurement methods and at least one of the following circumstances applies: (i) the item is available only from a single source; (ii) the public exigency or emergency (i.e., a threat to public health, welfare, safety, property or other substantial loss to SFRTA, or a situation requiring immediate action by SFRTA, as determined by the Executive Director or General Counsel, as applicable) will not permit a delay resulting from a competitive Solicitation; (iii) FTA authorizes noncompetitive negotiations under the same or similar conditions; (iv) after Solicitation of a number of sources, competition is determined inadequate; or (v) the item is an associated capital maintenance item that has been determined by staff to be safety critical..
 - (c) A cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.
 - (d) The Procurement Director shall negotiate, as appropriate, price, delivery, and terms with the sole source Contractor.
- (13) Design-Build Procurement (capitalized terms included in this subsection shall have the meanings given in Section 287.055(2), F.S. unless otherwise defined herein).
- (a) A Design-Build Contract is a single Contract with a single contractor for the design and construction of a Capital Project.
 - (b) A Design Criteria Professional shall be selected through a CCNA process to prepare a Design Criteria Package for any Design-Build Project. The Design-Criteria Professional that prepares the Design Criteria package shall not compete for the Design-Build Contract.
 - (c) Preparation of Design Criteria. The Design Criteria Package shall be prepared for the Design-Build Project by the Design Criteria Professional. The purpose of the Design Criteria Package is to furnish sufficient information so as to permit Design-Build Firms to prepare a response to Competitive Bids, a response to a Requests for Proposals, or to permit SFRTA to enter into a negotiated Design-Build Contract. The Design Criteria shall specify applicable performance-based criteria for the Design-Build Project, which may include, but not be limited to: (i) the legal description of the site; (ii) survey information concerning the site; (iii) interior space requirements; (iv) material quality standards; (v) schematic layouts and conceptual design criteria; (vi) cost or budget estimates; (vii) design and construction schedules; (viii) site development requirements; (ix) provisions for utilities; (x) storm water retention and disposal; and (xi) parking requirements.

- (d) Design-build Contracts will be solicited, pursuant to a Design Criteria Package, by the use of a competitive proposal selection process as described in subsection (h) below, or a qualifications-based selection process as provided for in Section 287.055(3), (4) and (5), Florida Statutes, and subsection (e) and (f) below.
 - (e) The selected firm in a qualifications-based selection process must, subsequent to competitive negotiations, establish a guaranteed maximum price and a guaranteed completion date.
 - (f) If the qualifications-based selection process is used during the selection of the Design-Build Firm, a licensed design professional appropriate to the Design-Build Project will be employed or retained to serve as SFRTA's representative.
 - (g) Construction activities may not begin on any portion of Design-Build Projects until title has been obtained for the necessary rights-of-way and easements for the construction of that portion of the project has vested in SFRTA or the state and all railroad crossing and utility agreements have been executed. Title to rights-of-way shall be deemed to have vested when the title has been dedicated to the public or acquired by prescription.
 - (h) Procedures for the use of a competitive proposal selection process must include the following:
 - 1. The preparation of a design criteria package for the design and construction of the Design-Build Project.
 - 2. The qualification and selection of no fewer than three (if three submit proposals) design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.
 - 3. The criteria, procedures, and standards for the evaluation of Design-Build Contract proposals, based on price, technical, and design aspects of the project, weighted for each specific Design-Build Project.
 - 4. The Solicitation of competitive proposals, pursuant to a design criteria package, from those qualified Design-Build firms and the evaluation of the responses submitted by those firms based on the evaluation criteria and procedures established prior to the Solicitation of competitive proposals.
 - 5. No proposal may be withdrawn for at least one hundred eighty (180) days following proposal opening.
- (14) Communications and Cone of Silence (the following shall be inserted in all Formal Procurements):

ANY COMMUNICATIONS BETWEEN ANY POTENTIAL VENDOR, SERVICE PROVIDER, BIDDER, LOBBYIST OR CONSULTANT AND ANY BOARD MEMBER, STAFF MEMBER, COMMITTEE MEMBER, OR CONSULTANT OF SFRTA REGARDING THIS PROCUREMENT ARE STRICTLY PROHIBITED FROM THE DATE ON WHICH THE SOLICITATION ADVERTISEMENT APPEARS ON SFRTA'S WEBSITE OR NEWSPAPER THROUGH THE DATE OF CONTRACT AWARD AND FROM THE DATE OF THE FILING OF ANY NOTICE OF PROTEST OF AWARD THROUGH RESOLUTION FOR THE PARTIES INVOLVED IN THE PROTEST OR CONTRACT AWARD, WHICHEVER IS LONGER.

The only exceptions to this are: (i) any communications with the Procurement Director or SFRTA's designated point of contact; (ii) site visits to the apparent low bidder's or apparent successful proposer's facilities (iii) any communications made on the record at a publicly noticed meeting of SFRTA, or (iv) negotiation meetings held by the Procurement Director.

It may be determined that other Contracts such as Sole Source Procurements may include a Cone of Silence provision and if so, the Cone of Silence language may be modified for that specific Procurement. Any violation of the Code of Silence requirements shall constitute grounds for immediate and permanent disqualification of the offending firm and possible debarment or suspension. At the Procurement Director's sole discretion, it may also serve as grounds for the voiding of any Contract with the violator and/or to temporarily or permanently debarring the violator from future work with SFRTA."

(15) Emergency Procurements

Notwithstanding any other provision of this Policy, the Executive Director may make Emergency Procurements when the Executive Director determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to SFRTA requires emergency action. After the Executive Director makes such a written determination, SFRTA may proceed with the Procurement of Services or Supplies necessitated by the immediate danger, without competition. However, such Emergency Procurement shall be made with such competition as is practicable under the circumstances. The Executive Director shall furnish a copy of the written determination and any other documents relating to the emergency action to the Board at its next regularly scheduled meeting. In the case of the emergency purchase of insurance, the period of coverage of such insurance shall not exceed a period of sixty (60) days.

(16) Other Methods

The Executive Director may develop and implement procedures for other methods of Procurement, including, but not limited to, Electronic Procurement, Cooperative Purchasing, Construction Manager ("CM") at Risk and Invitation to Negotiate, and shall

promulgate rules for any such procedures he or she develops as soon as doing so would be both feasible and practicable.

(17) Authorization for the Use of Electronic Transmissions

The use of electronic media, including acceptance of electronic signatures, is authorized consistent with State law, so long as there exists:

- (a) appropriate security to prevent unauthorized access to the bidding, approval, and award processes; and
- (b) a method for accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

(18) Disadvantaged Business Enterprises

- (a) Contractors shall cooperate with SFRTA in meeting commitments and goals with regard to the maximum use of Disadvantaged Business Enterprises (DBE). Best efforts shall be used to ensure DBEs receive the maximum opportunity to compete for subcontracts.
- (b) Contractors shall ensure that certified DBE firms are provided with the maximum opportunity to participate in the performance of work under a contract. The DBE participation which Contractors commit to in their bids that meets or exceeds the Contract goal shall become the goal of record, and SFRTA shall monitor the DBE participation committed to in the Bid. If Contractors cannot meet the stated DBE Contract goal, they shall provide SFRTA with information necessary to establish each Contractor's good faith efforts to obtain the DBE participation goal. Successful achievement of good faith efforts will be based on criteria specified by SFRTA in the Contract documents.

- (19) Waiver. This Policy may be adopted, amended, waived or repealed by a majority vote of the entire Board at a regular meeting after consideration of the matter at a prior regularly scheduled Board meeting, unless approved by a supermajority of the Board membership at one (1) meeting. A supermajority shall be defined as two-thirds (2/3) of the members of the entire Board.

CHAPTER 5. DEBARMENT AND SUSPENSION PROCEDURES

- (1) Authority: After thirty (30) days notice to the Person involved and a hearing before the Executive Director, the Executive Director, after consultation with the General Counsel, shall have authority to debar a Person for cause from consideration for award of future Contracts. The debarment shall be for a period commensurate with the seriousness of the cause(s), but no more than three (3) years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. Where the offense is willful or egregious, a longer term of debarment will be imposed, up to a

period of five (5) years. The Executive Director shall also have the authority to suspend a Person from consideration for award of a Contracts if he or she:

- (a) Has adequate evidence that there may be a cause for debarment of the Person; and
 - (b) Concludes that immediate action is necessary to protect SFRTA's interests.
 - (c) If no debarment proceeding follows the suspension, the suspension shall not be for a period exceeding twelve (12) months.
- (2) Cause for Debarment. The causes for debarment, when based on a preponderance of the evidence, include the following:
- (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private Contract or subcontract, or in the performance of such contract or subcontract.
 - (b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor.
 - (c) Conviction for any public entity crime as defined under Section 287.133, Florida Statutes, or any federal public entity crime law.
 - (d) Conviction under state or Federal antitrust statutes arising out of the submission of bids or proposals.
 - (e) Violation of Contract provisions, including deliberate failure without good cause to perform in accordance with the terms and specifications or within the time limit provided in the Contract; or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts with SFRTA or another governmental entity, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
 - (f) Refutation of an offer by failure to provide bonds, insurance or other required certificates within the time period set forth in Contract documents.
 - (g) Refusal to accept a purchase order, agreement, or Contract, or to perform provided such order was issued timely and in conformance with the offer received or a Change Directive.

- (h) Presence of principals or corporate officers in the Business, who were principals within another Business at the time when the other Business was suspended within the last three years under the provisions of this subsection.
 - (i) Violation of the ethical standards for public business set forth in Florida Statutes.
 - (j) Unilateral withdrawal of a bid or price proposal before one hundred eighty (180) days have elapsed from the date of bid opening or a time specified in the ITB, RFP, or Design Build Solicitation Documents.
 - (k) Violation of this Policy's Cone of Silence requirements.
- (3) Decision: The Executive Director shall issue a written decision to debar or suspend. The decision shall state the reason for the action taken and, if the decision is to debar, the length of the debarment; and, notice to the debarred or suspended Person of his or her right to appear before the Board to appeal the Executive Director's decision.
- (4) Notice of Decision: A copy of the decision for the debarment or suspension shall be mailed or otherwise furnished no later than three (3) business day from the decision to the debarred or suspended Person and any other party intervening.
- (5) Hearing Procedure for Debarment, Suspension of Vendors.
- (a) Right of Appeal: Any Person dissatisfied or aggrieved with the notification of the Executive Director's determination regarding a determination to debar or suspend must, within ten (10) calendar days of such notification, appeal said determination to SFRTA in accordance with the procedures contained in this subsection, or it shall have waived such right.
 - (b) Hearing Date: Within ten (10) calendar days from the receipt of the notice of appeal, SFRTA shall schedule a hearing to be held at the next regularly scheduled meeting of the Board, at which time the Person shall be given the opportunity to demonstrate why the decision of the Executive Director should be overturned.
 - (c) Hearing Procedure:
 1. SFRTA shall cause to be served upon the Person a notice of hearing, stating the time and place of the hearing. The notice of hearing shall be sent by certified mail, return receipt requested, to the mailing address of the Person.
 2. The Person shall have the right to be represented by counsel, to call and examine witnesses, to introduce exhibits, to examine opposing witnesses on any relevant matter, even though the matter was covered under direct

examination, and to impeach any witness regardless of which party first called him to testify.

3. In any hearing before the Board, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida.
4. Within thirty (30) calendar days from the hearing, the Board shall complete and submit to the Executive Director and the Person requesting said hearing a final order consisting of the findings of fact and conclusions of law as to the granting or denial of the appeal.
5. All Persons must comply with this procedure before challenging the decision pursuant to any other procedure. All costs associated with the Person's appeal to the Board shall be solely borne by that Person regardless of the outcome of the appeal.

(6) Reinstatement

- (a) Grounds: Request for reinstatement shall be made in writing based upon the following: (i) discovery of new and material evidence not previously available; (ii) dismissal of the indictment or reversal of the conviction; and (iii) bona fide change in ownership or management sufficient to justify a finding of present responsibility.
- (b) Procedures: The request for reinstatement shall be forwarded by the Executive Director to the Board for a determination on reinstatement. The determination whether to reinstate shall be based on the written submission of evidence, without further hearing. Upon consideration of the written submission and any response from the Executive Director, the Board shall make a determination whether or not reinstatement is warranted under the standards set forth above.

CHAPTER 6. VENDOR PROTEST PROCEDURES

The following are the procedures for protesting Solicitations and Contract awards.

- (1) Protest Policy: SFRTA provides Interested Parties with the opportunity for an administrative review of written Protests and strives to resolve any Protest expeditiously at the Procurement Director's level to the maximum extent possible.
- (2) Filing a Protest: Only an Interested Party may file a Protest regarding the Solicitation Documents issued by SFRTA by filing a written Notice of Protest with SFRTA within seventy-two (72) hours from the availability date of the Solicitation Documents set forth

in the advertisement posted on SFRTA's website, excluding Saturdays, Sundays and legal holidays observed by SFRTA or from the date of the issuance of any addenda if specifically relating to the content of the addendum. Failure to file a Notice of Protest within the provided timeframes, for any reason whatsoever, shall constitute a complete and absolute waiver of Protest rights.

With respect to any Protest of Contract award, the Notice of Protest shall be filed within the Protest Period. For Procurements not involving federal funds, SFRTA, at its sole discretion, may require in its Solicitation Documents that an Interested Party post with its formal Protest a Protest bond in the amount of 1% of the Contract amount or \$25,000, whichever is less. In the event the Interested Party receives an adverse determination on its Protest, the bond shall be forfeited to SFRTA.

An Interested Party shall file a formal written Protest within ten (10) business days of filing a Notice of Protest. In order to be considered, the Protest must contain: (i) the Interested Party's name, address, telephone number, email address, facsimile number, and taxpayer identification number; (ii) identification of the Procurement or Contract at issue; (iii) a complete and concise statement of the grounds for the Protest, supported by relevant documents; (iv) identification of all Persons with information germane to the Protest; (v) a chronology of efforts made to resolve the matter prior to filing the Protest; and (vi) a statement of the relief requested.

- (3) **Protest Decision:** The Procurement Director shall reduce his or her decision to writing and shall transmit or otherwise furnish a copy of the decision to the Interested Party. The decision of the Procurement Director shall be final and conclusive unless, within seven (7) business days from the date of such decision, SFRTA receives from the Interested Party a written request for review of the decision addressed to the Executive Director. The decision of the Executive Director shall be final and conclusive.
- (4) **Continuation of Performance:** The Procurement Director shall determine whether SFRTA will proceed with Contract award or, if the Contract has been awarded, whether to suspend performance of the Contract, pending a decision on the Protest. SFRTA has no obligation, however, to suspend award or performance of the Contract in the event of a Protest.
- (5) **Remedies:** If SFRTA determines that a Protest is valid, the Executive Director, at his or her sole discretion, may: (i) Direct the Procurement Director to issue a new or amended Solicitation; (ii) award the Contract or recommend that the Board award the Contract, if the Contract amount exceeds the Executive Director's approval authority; (iii) terminate or suspend performance of the Contract that is the subject of the Protest; or (iv) take any other action permitted by law to promote compliance with SFRTA policies and applicable law.
- (6) **Filing of a Written Notice of Protest or Formal Protest:** All Written Notices of Protests or Formal Protests must be filed with the Procurement Director. All Protests must be received at the address shown on the Solicitation Documents during normal office hours

of 9:00 am to 5:00 pm, local time. Failure to file a Notice of Protest or a Protest as discussed herein, shall constitute a complete and absolute waiver of any such rights.

- (7) Informal Resolution: The Procurement Director may, at his or her sole discretion, agree to meet with the Interested Party within seven (7) calendar days, excluding Saturdays, Sundays and legal holidays observed by SFRTA, after the filing of a Protest to attempt to resolve the matter.